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Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

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IN RE ENRON CORPORATION
SECURITIES LITIGATION

: Consolidated Civil Action
: No. H-01-3624
:

This Document Relates To:

MARK NEWBY, et al., individually and
on behalf of all others similarly situated,
Plaintiffs,

v.

ENRON CORPORATION, et al.,
Defendants.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, et al., individually and
on behalf of all others similarly situated,
Plaintiffs,

v.

KENNETH L. LAY, et al.,
Defendants.

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**DEFENDANT MERRILL LYNCH & CO., INC.'S
MOTION FOR RECONSIDERATION OR CERTIFICATION
PURSUANT TO 28 U.S.C. § 1292(b)**

Defendant Merrill Lynch & Co., Inc. ("Merrill Lynch") files this its Motion for Reconsideration or Certification Pursuant to 28 U.S.C. § 1292(b), and in support hereof will show the Court as follows:

For the reasons set forth in its Memorandum of Law of Merrill Lynch & Co., Inc. in Support of Its Motion for Reconsideration or Certification Pursuant to 28 U.S.C. § 1292(b), which is filed contemporaneously herewith and is incorporated herein by

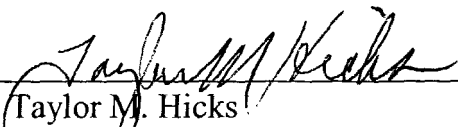
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reference, Merrill Lynch requests that the Court reconsider its Order regarding Secondary Actors' Motion to Dismiss dated December 19, 2002, and entered December 30, 2002 (the "Order") and that the Court grant Merrill Lynch's Motion to Dismiss Plaintiffs' Consolidated Complaint and dismiss the Plaintiffs' claims against Defendant Merrill Lynch in their entirety, pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995. In the alternative, Merrill Lynch requests that the Court certify its Order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b).

Accordingly, Merrill Lynch respectfully requests that this Court grant its Motion for Reconsideration or Certification Pursuant to 28 U.S.C. § 1292(b), enter an order dismissing Plaintiffs' claims, or alternatively, for certification of the Order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b), and for all other relief to which Defendant shows itself justly entitled. A form of order is attached for the Court's convenience.

Dated this the 7th day of January, 2003.

Respectfully submitted,

By: 
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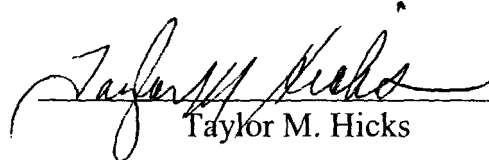
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**COUNSEL FOR DEFENDANT
MERRILL LYNCH & CO., INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served upon all known counsel of record by website, <http://www.esl3624.com>, pursuant to the Court's Order dated August 7, 2002 (Docket No. 984), on this the **7th** day of **January**, **2003**.

Please See Attached Service List


Taylor M. Hicks

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

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**ORDER ON DEFENDANT MERRILL LYNCH & CO., INC.'S
MOTION FOR RECONSIDERATION OR CERTIFICATION
PURSUANT TO 28 U.S.C. § 1292(B)**

On this date came to be heard Defendant Merrill Lynch & Co., Inc.'s Motion for Reconsideration or Certification Pursuant to 28 U.S.C. § 1292(b), and the Court having reviewed the pleadings and motions on file in this case is of the opinion that the motion is well-founded and should be granted. It is therefore,

ORDERED that Defendant's Motion for Reconsideration or Certification Pursuant to 28 U.S.C. § 1292(b) is hereby GRANTED. It is further,

ORDERED that all of Plaintiffs' claims asserted against Defendant Merrill Lynch & Co., Inc. in Plaintiffs' Consolidated Complaint are hereby dismissed.

SIGNED in Houston, Texas this the _____ day of _____, 2003.

UNITED STATES DISTRICT JUDGE